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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,897	07/30/2003	Itaru Sakou	1448.1042	6247
21171 7590 12/20/2006 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER LIN, JERRY	
			ART UNIT	PAPER NUMBER
			1631	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
30 DAYS		12/20/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20061212

DATE MAILED:

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Commissioner for Patents

Please see Continuation Sheet.

Notice of Non-Responsive Amendment

The amendment filed on October 11, 2006 amending all claims to draw to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because:

In response to the Office Action mailed, the Applicant has amended the claims to include additional limitations and method steps. Previously, the instant claims were drawn to a method of predicting expression sites with the steps of calculating the distance between a first and second gene and determining the expression site of the first gene based on the distance. The instant claims have now been amended to include the steps of calculating the distance between a target gene and a first gene, calculating the distance between a target gene and a second gene, extracting from a database a first and second site where the first and second genes are expressed, and outputting a list of sites. The instant claims no longer determined the distance between the first and second gene as it did previously. The instant claims also include a target gene that was not recited previously. The step of extracting from a database and outputting are entirely new steps.

According to See MPEP § 806.05(j), related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. In the instant case, the previous claims are distinct from the instant claims. The instant claims have new limitations as well as new method steps. Furthermore, the

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previous claims calculated the distance between the first and second gene, a calculation that the instant claims do not make. Finally, the goal of the previous claims was to predict a gene expression site, whereas the goal of the instant claims is to support predicting a site. Thus the claims have a different design, mode of operation, function and effect. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Lin whose telephone number is (571) 272-2561. The examiner can normally be reached on 10:00am-6:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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JL

MICHAEL BORIN, PH.D
PRIMARY EXAMINER

